

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION**

ANTWAYN CARTER,

Petitioner,

VS.

DAVID FRAZIER,

Respondent.

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NO. 3:12-CV-8 (CDL)

**Proceedings Under 28 U.S.C. §2254
Before the U.S. Magistrate Judge**

ORDER

Respondent herein has filed a motion seeking dismissal of the above-captioned habeas corpus petition asserting that Petitioner has not yet exhausted the state remedies available to him as required by Rose v. Lundy, 455 U.S. 509, 102 S.Ct. 1198, 71 L.Ed.2d 379 (1982). Doc. 6. That is, Respondent contends that Petitioner has failed to properly submit one or more grounds for relief to the state courts for review prior to filing this federal habeas corpus action or, if he has submitted his claims, no decision has yet been made in the state courts. Since Petitioner is proceeding *pro se*, the Court deems it appropriate and necessary to advise him of his obligation to respond to said motion and of the consequences which he may suffer if he fails to file a proper response thereto.

Petitioner is advised:

- (1) that a MOTION TO DISMISS has been filed herein by the Respondent;
- (2) that he has the right to oppose the granting of said motion; and,
- (3) that if he fails to oppose said motion, his petition may be DISMISSED.

Petitioner is further advised that, under the procedures and policies of this Court, motions seeking dismissal are normally decided on briefs. The Court considers the pleadings and briefs filed by the parties in deciding whether dismissal is appropriate under the law. FAILURE OF THE PETITIONER HEREIN TO RESPOND TO THE MOTION TO DISMISS MAY RESULT IN THE

GRANTING OF SAID MOTION. Upon the recommendation of the magistrate judge, the district judge could grant the motion to dismiss. There would be no hearing or any further proceedings.

Accordingly, Petitioner is ORDERED AND DIRECTED to file a response to said MOTION TO DISMISS **ON OR BEFORE APRIL 16, 2012.** Thereafter, the Court will consider the motion and any opposition to the same filed by the Petitioner. If no response is submitted by Petitioner, the Court will consider said motion to be uncontested.

SO ORDERED, this 22nd day of March, 2012.

s/Charles H. Weigle
Charles H. Weigle
United States Magistrate Judge